

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In re:)
)
MIN SIK KANG) Case No. 10-18839-BFK
MAN SUN KANG,) Chapter 11
Debtors.)

)
RAYMOND A. YANCEY,) Adversary Proceeding
Plaintiff,) No. 16-01005-BFK
vs.)
)
MIN SIK KANG, *et al.*,)
Defendant.)

**ORDER DENYING CONSENT MOTION
TO AUTHORIZE SERVICE OF A SUBPOENA
ON SUNTRUST BANK**

This matter is before the Court on the Plaintiff's Consent Motion to Authorize Service of a Subpoena on SunTrust Bank. Docket No. 388. For the reasons stated below, the Consent Motion will be denied.

The Complaint in this adversary proceeding was filed on January 11, 2016, almost two years ago. The initial discovery cutoff was May 11, 2016. Docket No. 5, ¶ 4(c) (providing for a discovery cutoff of 120 days from the issuance of the Summons). The discovery cutoff was extended *five times*, at the requests of the parties. Docket Nos. 43, 55, 74, 226, 256. The fifth extension allowed discovery to be completed by August 31, 2017. Docket No. 256, ¶ 2. Even after the fifth extension, the Court granted a limited extension for the return of documents from certain parties, including SunTrust Bank, through September 29, 2017. Docket No. 314.

The Plaintiff has represented to the Court that it served SunTrust Bank with a subpoena duces tecum on November 21, 2016. Docket No. 310, at 2. The date for return of the SunTrust documents was December 9, 2016. *Id.*¹ The Plaintiff now argues that the documents produced by SunTrust Bank reveal the issuance of certain large-amount cashier's checks from the Five Days and G-Mart-related entities' bank accounts. Motion, Docket No. 388, at 2. Plaintiff's counsel, though, certainly could have learned of these cashier's checks and could have conducted additional discovery into the disposition of the proceeds during the nine months that elapsed between the return date of the SunTrust Bank subpoena of December 9, 2016 (or even a month or two thereafter to allow time for SunTrust to complete its production), and the ultimate discovery cutoff for these records of September 29, 2017.

The Court finds that there has been an insufficient showing for what would constitute a seventh extension of the discovery cutoff for the SunTrust Bank records.

It is therefore **ORDERED**:

1. The Consent Motion to Authorize Service of a Subpoena on SunTrust Bank is denied.
2. The Clerk will mail copies of this Order, or will provide cm-ecf notice of its entry, to the parties below.

Date: Dec 19 2017

Alexandria, Virginia

Copies to:

/s/ Brian F. Kenney

Brian F. Kenney
United States Bankruptcy Judge

Entered on Docket: Dec 19 2017

¹ It isn't clear to the Court why the Plaintiff waited until November 2016, more than ten months after the Complaint was filed, to serve SunTrust with a subpoena duces tecum, though the Court will allow for some time for the Defendants to have revealed that they or their business entities had bank accounts at SunTrust.

Jeffrey L. Tarkenton, Esquire
1200 Nineteenth Street, N.W.
Suite 500
Washington, DC 20036
Counsel for the Plaintiff Raymond Yancey

James A. Vidmar, Esquire
10211 Wincopin Circle, Suite 500
Columbia, MD 21044
Counsel for Defendants Min Sik Kang and Man Sun Kang ("The Debtors")

Barry Coburn, Esquire
1710 Rhode Island Avenue, N.W.
Second Floor
Washington, DC 20036
Counsel for Bop Sik Kang, Young Nam Kang, Sue Kang Kim, Steve Kim ("The Non-Debtor Defendants")